

REMARKS

Summary Of Office Action

Claims 1-23 are pending in this application.

The Examiner rejected claims 1-21 under the judicially created doctrine of obviousness-type double patenting over claims 1-28 of Kumar et al. U.S. Patent No. 6,610,063 (hereinafter “the '063 patent”) in view of Jackson et al. U.S. Patent No. 5,716,355 (hereinafter “Jackson”).

Claims 22 and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jackson.

The Examiner objected to claims 1-21 for lacking antecedence in claim 1 for “the channel.” The Examiner also objected to claim 21 because he did not understand the recital of “at least one longitudinal member” in view of parent claim 1, which also recites “a longitudinal member.”

The Examiner objected to the specification for failing to provide proper antecedence for the claimed subject matter. In particular, the Examiner said the specification provides no apparent basis for the “connecting member” and “connector” terminology used throughout the claims.

Summary Of Applicants' Reply

Applicants submit herewith a Terminal Disclaimer Under 37 C.F.R. § 1.321(b,c).

The specification has been amended to provide a basis for the claim terms “connecting member” and “connector.”

Applicants have also amended claim 1 to correct the antecedence problem, and have amended dependent claim 13 and independent claim 22 to more clearly define the invention.

No new matter has been added.

Reconsideration of this application in view of the amendments and following remarks is respectfully requested.

The Obviousness-Type Double Patenting Rejections

The rejections of claims 1-21 under the judicially created doctrine of obviousness-type double patenting are respectfully traversed.

Applicants submit herewith a Terminal Disclaimer Under 37 C.F.R. § 1.321(b,c) disclaiming the terminal portion of any patent issuing on this application beyond the expiration of the full statutory term of the '063 patent and requiring common ownership of any patent issuing on this application with the '063 patent.

Accordingly, applicants respectfully request that the rejections of claims 1-21 under the judicially created doctrine of obviousness-type double patenting be withdrawn.

The Objection To Claim 21

The Examiner objected to claim 21 ("A spinal rejection system comprising at least one longitudinal member and the assembly of claim 1"), because the assembly of claim 1 already includes "a longitudinal member."

Applicants respectfully submit that claim 21 is not objectionable. Claim 21 defines a system that includes at least two longitudinal members: one longitudinal member being a part of a spinal fixation assembly and at least one other longitudinal member.

Accordingly, applicants respectfully request that the objection to claim 21 be withdrawn.

Rejections Of Claims 22 and 23 Under 35 U.S.C. § 102(b)

Claims 22 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by Jackson.

These rejections are respectfully traversed.

Independent claim 22 has been amended to recite that the hook has an opening opposite the inner surface of the hook that stays open while the longitudinal member is secured in the hook.

Jackson does not show or suggest such a connector.

In contrast, Jackson discloses in its FIG. 12 a cap 123 that closes the opening (shown by arrow 129) opposite groove 126 in order to secure a spinal rod.

Thus, independent claim 22 is not anticipated by Jackson and should therefore be allowable.

For at least these reasons, dependent claim 23, which depends from independent claim 22, should also be allowable (i.e., dependent claims are allowable if their independent claim is allowable).

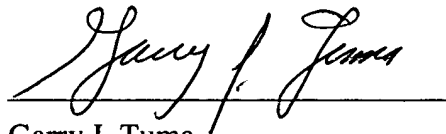
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Accordingly, applicants respectfully request that the rejections of claims 22 and 23 under 35 U.S.C. §102(b) be withdrawn.

Conclusion

The foregoing demonstrates that claims 1-23 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Garry J. Tuma", is written over a horizontal line.

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